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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

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JOERGEN GEERDS,

Plaintiff,

-against-

**FAHD AZAM d/b/a MR. CAPONE-E AND HI
POWER ENTERTAINMENT, BRYON
ANTHONY MCCANE, and DOES 1 through 10,
inclusive,**

Defendants.
-----X

Case No.:

00

3562

COMPLAINT

COGAN, J.

CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.
AUG 17 2009 ★
BROOKLYN OFFICE

Plaintiff JOERGEN GEERDS ("Geerds"), by his attorneys, Loanzon Sheikh LLC, for his Complaint against FAHD AZAM d/b/a MR. CAPONE-E AND HI POWER ENTERTAINMENT, BRYON ANTHONY MCCANE, and DOES 1 through 10, inclusive (collectively, "Defendants"), herein alleges as follows:

JURISDICTION AND VENUE

1. This is a civil action seeking damages, injunctive relief, and other remedies for copyright infringement under the copyright laws of the United States (17 U.S.C. § 101 et seq.).
2. This Court has subject-matter jurisdiction over this action pursuant to 17 U.S.C. § 101 et seq. (the Copyright Act), 28 U.S.C. § 1331 (federal question), and 28 U.S.C. § 1338(a) (copyright).
3. Defendants are subject to personal jurisdiction of this Court and venue is proper in this District under 28 U.S.C. § 1391(b) and 28 U.S.C. § 1400(b) in that the substantial part of

the infringement occurred in this District, that the substantial part of the infringed property is situated in this district, that defendants have committed acts of infringement in this District, and the defendants transact business in this District.

PARTIES

4. Plaintiff Joergen Geerds is a resident of the State of New York.

5. Upon information and belief, Defendant Fahd Azam is a resident of the State of California and conducts business under the names Hi Power Entertainment and Hi Power Music, and is also known by the name “Mr. Capone-E.”

6. Defendant Hi Power Entertainment, Inc. d/b/a Hi Power Music is a California corporation that maintains a place of business at 5716 Peter Wilks Court, Corona, California 92880.

7. Fahd Azam lists the following address as his place of business: 5716 Peter Wilks Court, Corona, California 92280.

8. Defendant Bryon Anthony McCane a/k/a “Bizzy Bone” is a resident of the State of California and maintains a P.O. Box care of Belizza Frazier, P.O. Box 61359, Sunnyvale, California 94088.

9. The true names and capacities, whether individual or corporate, of the defendants named herein as DOES 1 through 10, inclusive, are unknown to Plaintiff, who therefore sues said defendants by such fictitious names. Plaintiff will seek leave of Court to amend this Complaint to insert the true names and capacities of said defendants when the same have been ascertained.

10. Plaintiff is informed and believes and based thereon alleges that each of the defendants designated herein as a “DOE” is legally responsible in some manner for the matters

alleged herein, and that Plaintiff's damages as alleged herein were proximately caused by such defendants.

BACKGROUND

11. Joergen Geerds, a professional photographer in New York, created a photograph called "Pepsi Cola Panorama" on August 23, 2007.

12. Mr. Geerds is an accomplished photographer who started his career as a fine art photographer. He began exhibiting his night panoramas of New York City scenes in 2007. His works are displayed in a prominent gallery in Chelsea section of New York, and can be seen on his portfolio websites and blog.

13. The Pepsi Cola Panorama is an original work that may be copyrighted under United States law. A copy of the Pepsi Cola Panorama is attached as **Exhibit A**.

14. On June 30, 2009, Geerds applied to the copyright office to register the Pepsi Cola Panorama. The registration became effective June 30, 2009.

15. Since August 23, 2007, Geerds remained the sole owner of the copyright.

16. After the copyright was issued, defendants infringed the copyright by publishing and selling a music CD entitled Bizzy Bone, Back With the Thugz II.

17. The CD cover of the Back With the Thugz II record contains the identical Pepsi Cola Panorama, which copyright belongs to plaintiff.

18. A copy of the infringing CD cover is attached as **Exhibit B**.

19. The CD containing the infringing cover is available for sale at www.amazon.com and www.barnesandnoble.com to any purchasers, including New York residents.

20. The CD containing the infringing cover is also available for sale at www.borders.com to any purchasers, including New York residents.

21. The CD containing the infringing cover is also available for sale on international websites such as www.amazon.co.jp and www.amazon.de to any purchasers, including New York residents.

22. The sale of the CD over the aforementioned websites is purposefully directed to anyone wishing to purchase the CD, including New York residents.

23. The infringing CD cover was created by Defendants Azam and Hi Power Entertainment.

24. Defendant Bryon Anthony McCane aided and contributed to creation of the CD cover.

25. Geerds has notified Defendants in writing of the infringement.

26. Defendants continue to infringe the copyright by continuing to publish and sell the infringing CD cover in violation of plaintiff's copyright on the Pepsi Cola Panorama, and further has engaged in unfair trade practices and unfair trade competition in connection with its publication and sale of the infringing CD cover, thus causing irreparable damage.

WHEREFORE, PLAINTIFF JOERGEN GEERDS DEMANDS THAT:

a) Until this case is decided, defendants' and their agents be enjoined from disposing of any copies of defendants' CD by sale or otherwise;

b) Defendants account for and pay as damages to the plaintiff all profits and advantages gained from unfair trade practices and unfair competition in selling defendants' CD

containing the infringing cover, and all profits and advantages gained from infringing the plaintiff's copyright (but no less than the statutory minimum);

c) Defendants deliver for impoundment all copies of the CD cover in defendants' possession, custody, or control and deliver for destruction all infringing copies and all plates, molds, drafts, and other materials for making infringing copies;

d) Defendants recall for impoundment all copies of the CD cover in possession, custody, or control of defendants' agents, distributors, and retailers;


e) Defendants remove all images of the infringing CD cover from all websites and other promotional materials in possession, custody, and control of defendants' agents, distributors, and retailers;

f) Defendants pay the plaintiff interest, costs, and reasonable attorney's fees; and

g) Plaintiff be awarded any other just relief.

Dated: New York, New York
August 17, 2009

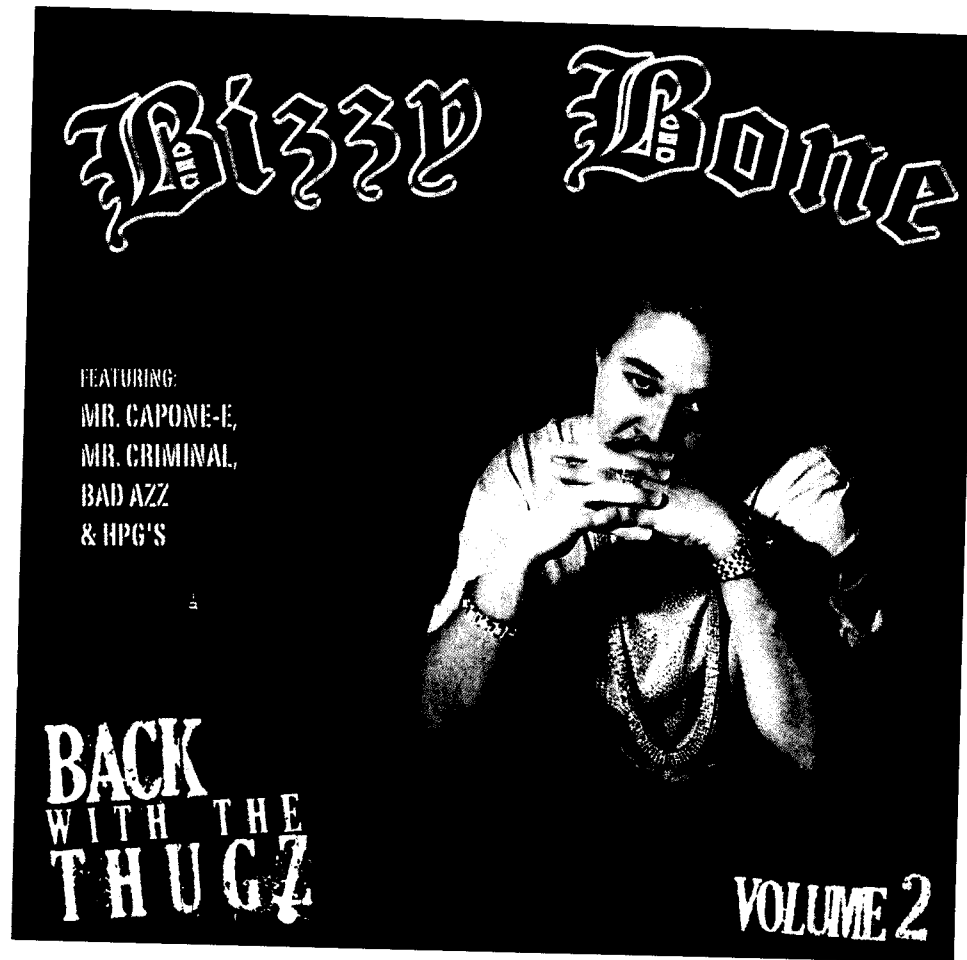
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Pepsi Cola Panorama (August 2007)© by Joergen Geerds

EXHIBIT A



Infringing CD Cover – Back With the Thugz II

EXHIBIT B